

The Administrative Law Judge (ALJ) found claimant suffered accidental injury arising out of and in the course of her employment as a result of her exposures to the

chemical disinfectant at work which had caused a severe asthma attack. But the ALJ further determined the preponderance of the medical evidence did not support claimant's contention that her continued inability to speak was the result of her exposures to the chemical disinfectant at work. Accordingly, the ALJ denied claimant's request for further benefits.

The claimant requests review of the following: (1) whether her current inability to speak is the natural and probable consequence of her exposures to the chemical disinfectant at work; (2) whether she is entitled to outstanding, unauthorized and future medical; and, (3) the nature and extent of disability, if any. Claimant argues she is permanently and totally disabled as a result of her inability to speak.

Respondent argues there is no causal relationship between claimant's work-related exposure to the chemical disinfectant and her inability to speak. Respondent further argues the ALJ's Award should be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

The Board finds that the ALJ's Award sets out findings of fact and conclusions of law that are detailed, accurate, and supported by the record. The Board further finds that it is not necessary to repeat those findings and conclusions in this order. Therefore, the Board adopts the ALJ's findings and conclusions as its own as if specifically set forth herein.

Briefly stated, the claimant was employed as a cashier for respondent and on December 10, 2004, and again on December 24, 2004, was exposed to a disinfectant spray cleaner called End Bac when a co-worker used the aerosol spray to clean a wheelchair near claimant's work station. Claimant was provided treatment but since the exposures can only speak in a slight whisper.

The claimant was referred by one of her treating physicians to Dr. Glen J. Misko for a second opinion. Dr. Misko, a board certified ear, nose and throat specialist, examined claimant on September 2, 2005. He performed a stroboscopy by passing a flexible endoscope through claimant's nose in order to observe her larynx. The examination did not reveal any abnormalities. The doctor noted that when claimant attempted to phonate or speak the muscles in her throat and outside her voice box would tense up preventing voice production. But when coughing or clearing her throat the claimant had normal

phonation. And the same anatomical parts of the voice box are used when coughing, clearing the throat or speaking.

Dr. Misko diagnosed claimant with functional dysphonia which is related to conversion hysteria. Dr. Misko concluded that there was no anatomical or physiological reason for claimant's inability to speak. Dr. Misko referred claimant to a speech therapist as functional dysphonia usually is responsive to speech therapy although the doctor had some concerns regarding secondary gain because claimant was involved in a workers compensation claim.

The speech therapist recommended that claimant be examined to determine if she had a pulmonary problem which was preventing normal speech. On March 8, 2006, the claimant was examined by Dr. Daniel C. Doornbos, board certified in Pulmonary and Critical Care Medicine. Dr. Doornbos concluded the claimant had adequate pulmonary function to generate breath and did not have pulmonary disease or respiratory illness. The doctor further noted he did not find any evidence that claimant had asthma. He further opined that although claimant's exposure to the chemical at work may have been a transient irritant it was not the cause of her continuing problems. Moreover, the doctor concluded the claimant's use of the Albuterol and EpiPen simply provide a placebo effect because those medications have no effect on the throat.

Joanna Wyckoff, a speech pathologist for 22 years at Wesley Hospital, treated claimant upon referral from Dr. Misko. At the initial evaluation of claimant on October 18, 2005, Ms. Wyckoff noted that claimant could cough but when she tried to explain to claimant that meant her vocal folds were functioning she noted claimant did not respond positively as most patients would. She also noted claimant expressed it was painful when Ms. Wyckoff touched her neck although Ms. Wyckoff observed claimant massaging her neck without any expressions of pain. During her treatment claimant did not comply with Ms. Wyckoff's requests such as pursing her lips and blowing. Again Ms. Wyckoff noted there was no physiological reason claimant could not perform that task. Ms. Wyckoff then got a straw for claimant to blow through into a glass of water. Claimant did not comply even though because she was breathing she could do the task. At a later therapy session claimant would not even get into a recliner to relax as requested by the speech pathologist. Ms. Wyckoff terminated the therapy as claimant was not making any progress. Finally, it was Ms. Wyckoff's opinion that claimant was physiologically capable of speech.

At the request of respondent's attorney, the claimant was examined on March 28, 2006 by Dr. Lee A. Reussner, a board certified Otolaryngologist who specializes in disorders of the larynx or voice box. Dr. Reussner performed a stroboscopy of claimant's larynx or the vocal cord area which showed no masses, growths, lesions nor substantial evidence of infection or inflammation. Dr. Reussner's examination revealed significant muscle contraction so severe that it would not allow claimant's vocal cords to vibrate

appropriately. The doctor diagnosed claimant with severe muscle tension dysphonia and a secondary diagnosis of irritable larynx syndrome which the doctor described as a hypersensitive response from exposure to otherwise normal irritants. But when the doctor reviewed documentation regarding the chemical disinfectant that claimant was exposed to at work he concluded there was nothing that would lead him to conclude a permanent injury would result from inhaling the chemicals. Moreover, the doctor did not find a relationship between claimant's dysphonia and her exposure to chemicals at work. Dr. Reussner again emphasized that aggressive speech therapy normally resolves the condition.

At the request of her attorney, the claimant was examined by on April 7, 2006 by Dr. Peter V. Bieri. Dr. Bieri performed a microscopic fiberoptic evaluation of claimant's larynx which was somewhat inhibited because claimant refused topical anesthesia. Dr. Bieri performed the examination and concluded claimant had laryngeal dysfunction with residual spastic dysphonia which he attributed to claimant's exposure to a chemical at work. But Dr. Bieri simply relied upon claimant's history of exposure as he did not know the type of chemicals as he was not provided the material safety data sheet for the aerosol spray. Nor did he know the length or amount of exposure. Dr. Bieri did not think there was a distinction between muscle tension dysphonia (diagnosed by Dr. Reussner) and spastic dysphonia. And Dr. Bieri agreed that upon his physical examination of claimant he did not find any signs of toxic exposure. Finally, Dr. Bieri agreed that the laryngeal edema reported in 2004 could have resulted from a variety of causes including gastroesophageal reflux disease, post nasal drip or infections.

The ALJ concluded the opinions of Drs. Misko, Doornbos and Reussner more persuasive than Dr. Bieri. Consequently, the ALJ determined claimant had not met her burden of proof to establish that the exposures on December 10 and 24, 2004, were the cause of her continued inability to speak. The Board agrees and affirms.

Although there is a temporal relationship between the incidents at work and claimant's onset of speech problems, nonetheless, the preponderance of the medical evidence as well as the speech pathologist's testimony establishes there is no physiological reason for claimant's continued inability to phonate. And while Dr. Misko mentioned conversion hysteria, the claimant has not met her burden of proof to establish that her continued inability to speak is due to a psychological injury nor any direct causal relationship between such a conversion reaction and the incidents at work.

AWARD

WHEREFORE, it is the decision of the Board that the Award of Administrative Law Judge John D. Clark dated March 9, 2007, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of July 2007.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Joseph Seiwert, Attorney for Claimant
Kendall Cunningham, Attorney for Respondent and its Insurance Carrier
John D. Clark, Administrative Law Judge